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August 8, 2007

VIA ECF
Honorable Ronald L. Ellis
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: McKay v. The City of New York et. al.
Case #: 05-CV 8936 (KMK) (JCF)

Honorable Ronald L. Ellis:

I am the attorney for the plaintiff in the above false arrest action. I am in receipt of a Notice of Deposition and Subpoena directed to the MTA Police Department which is my client's employer. I would like to have the opportunity to move to quash this subpoena for a variety of reasons. First, the discovery deadline in this matter has past months ago. Second, the parties have already attended to final conference before Judge Karas who scheduled a trial control date in this matter in September. Third, the items demanded are overbroad and irrelevant to the claims and defenses in this action. Fourth, the items demanded in the subpoena are of a highly personal nature and are not probative of the matters in dispute in this case.

I have a vacation schedule this summer where I will be leaving tomorrow for vacation and returning the Wednesday after Labor Day. Therefore, to the extent that your Honor would like the parties to brief this issue, I would ask that your Honor order a temporary stay with respect to the subpoena which was served on the MTA and allow the parties, if you wish, to brief this issue in September. I called Ms. Halbadier today but was only able to leave a message.

Thank-you for your kind consideration in this matter.

Very Truly Yours:

Law Office David A. Zelman

David Zelman, Esq.

cc: ____ Via Fax 212-608-8901
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____ Barry McTiernan & Moore
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